

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Donniel Woods, #272800,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 9:09-2231-TLW-BM
)	
Amy A. Land;)	
Marsha Nelson;)	
Laura Mills; and)	
Barbara Proctor,)	
)	
Defendants.)	
_____)	

ORDER

Plaintiff, Donniel Woods (“plaintiff”), filed this civil action, *pro se*, on August 24, 2009. (Doc. #1).

On September 1, 2009, United States Magistrate Judge Bristow Marchant filed a Report and Recommendation recommending that the complaint in this case be dismissed without prejudice and without issuance and service of process. (Doc. #8). On September 11, 2009, the plaintiff filed objections to the first Report and Recommendation. (Doc. #10). On that same date, the plaintiff also filed an amended complaint in which he amended his allegations to include a claim for monetary damages against the defendants. (Doc. #11). Following the filing of the amended complaint, the Magistrate Judge issued a second Report and Recommendation (“the second Report”). (Doc. #15). The filing of the second Report has rendered the first Report and Recommendation moot. (Doc. #10).

This matter now comes before this Court for review of the second Report filed by the Magistrate Judge to whom this case had previously been assigned. (Doc. #15). In the second

Report, the Magistrate Judge recommends that the District Court dismiss the complaint in this action without prejudice and without issuance and service of process. (Doc. #15). The plaintiff filed objections to the second Report. (Doc. #17). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the second Report and the objections. After careful review of the second Report and objections thereto, the Court **ACCEPTS** the second Report. (Doc. #15)¹. For the reasons articulated by the Magistrate Judge, this action is **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

October 29, 2009
Florence, South Carolina

¹As noted above, the issuance of the second Report has rendered the first Report and Recommendation, (Doc. #8), moot.